

REMARKS

I. The Pending Claims and the Various Amendments to the Specification and Claims

Turning first to the Amendments to the specification, Page 22 has been amended by updating the status of USSN 60/042664, which of course is now abandoned. In addition, the word "As" is inserted to correct a typographical error in line 9 of Page 22.

Turning next to the claims, with the entry of the above amendment, the pending claims are Claims 1-7, 18, 20, and 22-40, each of these claims being drawn to a patch bag. Process Claims 8-17, 19, and 21 stand withdrawn from consideration as the result of a restriction requirement. Attention is directed to Paragraph 1 of the 26 December office action, which states that claims 1-7, 18, and 20-35 are pending. This statement is correct insofar as Claims 1-7, 18, 20, and 22-35 are pending, but is incorrect in stating that Claim 21 is pending. Claim 21, a process claim, stands withdrawn as directed to a nonelected invention.

The pending independent claims are Claims 1, 18, and 20. Each of the independent claims has been amended above to recite the bag as being heat-shrinkable and the patch as also being heat-shrinkable, in accordance with the Examiner's suggestion in the 26 December Office Action. Support for these amendments can be found in Applicants' specification at, for example, Page 2 lines 18-19.

In addition, Claim 2 has been amended to recite the second film as having a total free shrink at 185°F of at least 10 percent. Moreover, newly-presented Claims 36-40 recite the first film and the second film as each having a total free shrink of at least 10 percent (Claims 37 and 39) or at least 20 percent (Claims 36, 38, and 40). Support for the

amendment of Claim 2 and newly-presented Claims 36-40 can be found in Applicants' specification at, for example, Page 13 line 25 through Page 14 line 2.

The amendment of Claim 34 is of a clerical nature, to render the claim more readable.

No new matter is included in the amendments. An Appendix containing a marked up version of the amended claims is provided below.

The Objection to the Specification

In Paragraph 6 of the 26 December Office Action, the specification is objected to as not providing the current status of USSN 60/042664. The status of this provisional application has been updated, per the amendment above set forth above.

The Allowed Claims and the Rejection of Claims 1, 4-7, 18, 21-25, and 28-30

In Paragraphs 4 and 5 of the 26 December Office Action state that Claims 20 and 31-35 are allowed and that Claims 2-3 and 26-27 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form. In Paragraph 8 of the 26 December Office Action, Claims 1, 4-7, 18, 21-25, and 28-30 are rejected under 35 USC 112, second paragraph, as indefinite. More particularly, the Office Action states that the claims should recite the heat-shrinkability of the films used to make the patch bag, as the usefulness of the patch bags is based upon the shrinkability of the films.

In response, Applicants note that as set forth above, each of the pending independent claims has been amended to recite both the patch and the bag as being heat-

shrinkable. However, Applicants contend that their invention is patentable because the configuration of the patch on the bag, as recited in each of independent Claims 1, 18, and 20, is not taught or suggested by the prior art (i.e., for the same reasons set forth in Applicants' Brief on Appeal), without regard as to whether the patch or bag films are heat-shrinkable. Thus, Applicants make the suggested amendments in the spirit of cooperation, rather than to ensure that the scope of their claims is ascertainable. Applicants respectfully request entry of the amendment, and reconsideration of the patentability of the claims, with a view towards allowance.

Conclusion

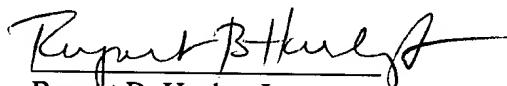
Reconsideration of the patentability of the pending claims is respectfully requested, in view of the amendments and arguments set forth above.

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DATE

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APPENDIX

Immediately below is a marked-up version of the paragraph spanning Pages 21 and 22 (i.e., Page 21 line 26 through Page 22 line 10), this marked-up version showing the amendments made to this paragraph of the specification.

--- That portion of bag 22 to which patch 24 is adhered is "covered", i.e., protected, by patch 24; for example, patch 24 covers a portion of seamless bag side edge 32. Upper and lower end portions 36 and 38 (respectively) of bag 22, as well as side portion 40 of bag 22, are preferably not covered by patch 24, for ease in producing bottom-seal 26, side-seal 28, both of which are preferably made before a product is placed in the bag, as well as a top-seal (not illustrated) which is preferably made after a product is placed in the bag. Heat sealing through bag 22 and patch 24 requires more heat than heat sealing merely through bag 22. Unless performed properly, sealing through both bag 22 and patch 24 can result in burn through and/or a weaker seal. For a process of sealing through the patch and bag together, see USSN 60/042664, now abandoned, in the name of DePoorter et al, entitled "PATCH BAG HAVING SEAL THROUGH PATCHES," filed April 4, 1997, the entirety of which is hereby incorporated by reference thereto. As can be seen in Figure 2, taken together, patch 24 covers over 50 percent of the distance around bag 22 (i.e., the "transverse circumference" of bag 22).---

Below is a marked-up version of the claims, indicating the amendments made above.

1. (Five Times Amended) A patch bag comprising a bag and a patch, wherein:

(A) the bag comprises a first heat-shrinkable film, the bag having [has] an open top, a bottom seal, and a side-seal at a first side edge of the bag; and

(B) the patch comprises a second heat-shrinkable film, the patch covering [covers] a portion of a seamless second side edge of the bag and at least a portion of both a first lay-flat side of the bag and a second lay-flat side of the bag;

wherein the bag comprises a first film and the patch comprises a second film, and the side-seal is through the first film but not through the second film and the patch does not extend to either the bottom seal or the side seal, and the patch covers more than 50 percent across the width of each of the lay-flat sides of the bag.

2. (Twice Amended) The patch bag according to Claim 1, wherein the [first film is a heat-shrinkable film and the second film is a heat-shrinkable film] second film has a total free shrink, at 185°F, of at least 10 percent.

18. (Four Times Amended) A patch bag, comprising:

(A) a lay-flat heat-shrinkable bag having an open top, a bottom seal, a first lay-flat side, a second lay-flat side, a seamless first side edge, and a seamless second side edge;

(B) a heat-shrinkable patch covering:

(i) across an entirety of a width of the first lay-flat side of the bag;

(ii) a portion of the seamless first side edge; and

(iii) a portion of the seamless second side edge; and

(C) a backseamed seal in the second lay-flat side of the bag, the backseamed seal running the length of the bag, wherein the bag comprises a first film and the patch comprises a second film, and the backseamed seal is through the first film but not through the second film and the patch does not extend to the backseamed seal;

wherein the patch does not cover the bottom of the bag, the patch does not extend to the bottom seal, and the bottom seal is through the bag and not through the patch, and the patch covers more than 50 percent across the width of each of the lay-flat sides of the bag.

20. (Three Times Amended) A patch bag, comprising:

(A) a heat-shrinkable bag having an open top, a first side-seal, a second side-seal, and a seamless bottom edge; and

(B) a single heat-shrinkable patch which covers a portion of the seamless bottom edge of the bag, at least a portion of an outside surface of a first lay-flat side of the bag, and at least a portion of an outside surface of a second lay-flat side of the bag, the single patch having a length of from about 101 to 200 percent of a length of the bag, wherein the bag comprises a first film and the patch comprises a second film, and the first and second side seals are through the first film but not through the second film and the patch does not extend to either the first side seal or the second side seal.

34. (Once Amended) The patch bag according to Claim 20, wherein the first film is a [first] biaxially-oriented, heat-shrinkable film comprising an outside abuse layer, a core O₂-barrier layer, an inside sealant layer, and the second film is a second biaxially-oriented, heat-shrinkable film.